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THE ASSETS DECLARATION ACT, 2019

[1s July, 2019]

Act No. V

AN 'ACT

to provide for voluntary declaration of undisclosed assets, sales and expenditure

WHEREAS there is a reportedly large scale non-declaration of assets, sales and expenditure;

AND WHEREAS it is expedient to make provisions for declaration of such assets, sales and expenditure for the purposes hereinafter appearing;

AND WHEREAS it is expedient to—

(a) allow the non-documented economy's inclusion in the taxation system; and

(b) serve the purpose of economic revival and growth by encouraging a tax compliant economy;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act shall be called the Assets Declaration Act, 2019.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" shall have the same meaning as defined in clause (8) of section 2 of the Income Tax Ordinance, 2001 (XLIX of 2001);

(b) "court of law" means a High Court or Supreme Court of Pakistan;

(c) "declarant" means a person making a declaration under section 3;

(d) "holder of public office" means a person as defined in the Voluntary Declaration of Domestic Assets Act, 2018 or his Benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017) or their spouses and dependents;

(e) "undisclosed assets" means all domestic and foreign assets of every kind the value of which has been unreported, under-reported or understated and includes Benami assets as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017);

(f) "undisclosed expenditure" means any unexplained or unaccounted expenditure under the provisions of the Income Tax Ordinance, 2001 (XLIX of 2001) up to the tax year 2018, which has not been declared in the return of income or for which a return of income has not been filed and such expenditure is not accounted for;

'This Act has been enacted by Finance Act, 2019 (Act. No V of 2019) s.17.

(g) “undisclosed sales” means sales or supplies chargeable to sales tax or goods or services subject to federal excise duty under the Sales Tax Act, 1990 or the Federal Excise Act, 2005, respectively, which were not declared or have been under-declared up to the 30th June, 2018.

(2) All other words and expressions used but not defined in this Act shall have the same meaning assigned thereto under the Income Tax Ordinance, 2001 (XLIX of 2001), the Sales Tax Act, 1990, the Federal Excise Act, 2005, the Benami Transactions (Prohibition) Act, 2017(V of 2017) and the rules made thereunder.

3. Declaration of undisclosed assets, sales and expenditure — Subject to the provisions of this Act, any person may make, on or before the 30th June, 2019, a declaration only in respect of any—

(a) undisclosed assets, held in Pakistan and abroad, acquired up to the 30th June, 2018;

(b) undisclosed sales made up to the 30th June, 2018;

(c) undisclosed expenditure incurred up to the 30th June, 2018; or

(d) Benami assets acquired or held on or before the date of declaration.

Explanation — It is clarified that the benefit under this Act shall also be available where—

(a) any proceedings have been initiated or are pending or where any income has been assessed under the Income Tax Ordinance, 2001 (XLIX of 2001), which are relatable to undisclosed assets or expenditure except where the matter has attained finality; and

(b) any proceedings have been initiated or are pending or have been adjudicated under the Sales Tax Act, 1990, or the Federal Excise Act, 2005, which are relatable to any undisclosed sales or supplies except where the matter has attained finality.

4. Charge of tax and default surcharge —(1) The undisclosed assets shall be chargeable to tax and default surcharge at the value mentioned in section 5 and at the rates specified in the Schedule to this Act.

(2) The undisclosed sales and expenditure shall be chargeable to tax and default surcharge at the rates specified in the Schedule to this Act.

5. Value of assets.—Value of assets,—

(a) in case of domestic immovable properties shall be the cost of acquisition but shall not be less than—

(i) 150% of the FBR value notified under sub-section (4) of section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001); or

(ii) 150% of the DC value, where FBR value has not been notified or the FBR value is less than the DC value; or

(iii) 150% of FBR value notified under sub-section (4) of section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001) for land and 150% of DC

value for constructed property, where FBR value has not been notified for constructed property.

(b) in case of all other assets, shall be the price which the assets would ordinarily fetch on sale in the open market on the date of declaration but in no case shall be less than the cost of acquisition of the asset:

Provided that in case of foreign assets, the fair market value shall be determined at the exchange rate prevalent on the date of declaration.

Explanation — It is clarified as follows—

(a) in case any declarant has already filed a declaration in respect of any immovable property under the Income Tax Ordinance, 2001 (XLIX of 2001), or the Voluntary Declaration of Domestic Assets Act, 2018 and wishes to enhance the declared value of the said immovable property, he may file a declaration under this Act in terms of the value mentioned in section 5 and above; and

(b) in case a person has already filed a declaration in respect of any immovable property which is in line with section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001), or the Voluntary Declaration of Domestic Assets Act, 2018 no further proceedings or action shall be initiated against him in view of the provisions of this Act, in particular section 5 thereof.

6. Time for payment of tax.—(1) The due date for payment of tax chargeable under this Act shall be on or before the 30th June, 2019:

Provided that after the due date under this sub-section, the tax shall be paid on or before the 30th June, 2020 along with default surcharge at the rates given in clause (2) of the Schedule to this Act.

(2) The tax in respect of foreign assets or foreign currency held in Pakistan shall be paid in foreign currency according to the procedure prescribed by the State Bank of Pakistan, in the mode and manner provided in section 9.

(3) If a person fails to pay tax and default surcharge according to this section, the declaration made shall be void and shall be deemed to have never been made under this Act.

(4) Notwithstanding the provisions of clause (g) of section 11, in case of outstanding demand at the time of filing of declaration, the declarant may pay the amount of such tax determined by the Officer of Inland Revenue, under the provisions of the Sales Tax Act, 1990 or the Income Tax Ordinance, 2001 (XLIX of 2001), or the Federal Excise Act, 2005, without payment of default surcharge and penalty.

(5) Where a person declares undisclosed sales and in case of undisclosed assets or undisclosed expenditures resulting from such sales, he is also required to declare such assets or such expenditures or both and pay tax at the rates specified in the Schedule to this Act on such assets or expenditures or both in addition to tax on such sales.

(6) Where the declarant has paid tax under this section, no tax shall be payable by the declarant under the Income Tax Ordinance, 2001 (XLIX of 2001), in respect of undisclosed assets and undisclosed expenditures.

(7) Where the declarant has paid tax under this section, no tax shall be payable by the declarant under the Sales Tax Act, 1990 or the Federal Excise Act, 2005 in respect of undisclosed sales.

7. Incorporation in books of account—(1) Where a declarant has paid tax under section 6 in respect of undisclosed assets, sales and expenditure the declarant shall be entitled to incorporate such assets, sales or expenditure in his return, wealth statement or financial statement irrespective of the fact that the asset, sales or expenditure were relatable to a year which is barred by time for the purpose of revision of return of income or wealth statement, as the case may be.

(2) No allowance, credit or deduction under any law for the time being in force shall be available for assets so incorporated.

8. Conditions for declaration.—The declaration made shall be valid, if—

(a) cash held by the declarant is deposited into a bank account in the manner specified at the time of declaration and is retained in such bank account up to the 30th June, 2019:

Provided that this clause shall not apply to an individual who cannot deposit cash in the bank account on the 30th June, 2019 on account of investment in immovable property or business, subject to payment of tax at a rate which is 2% more than the normal rate prescribed in the Schedule:

Provided further that such person shall provide particulars of the immovable property or investment in business as prescribed in the declaration form; or

(b) the foreign currency held in Pakistan declared under section 3 is deposited into declarant's own foreign currency bank account at the time of declaration and is retained in such account till the 30th June, 2019; or

(c) the repatriated foreign liquid asset is deposited into declarant's own Pak Rupee account or his foreign currency bank account in Pakistan or is invested into Pakistan Banao Certificates or any foreign currency denominated bonds issued by the Federal Government; or

(d) foreign liquid assets not repatriated to Pakistan shall be deposited in declarant's foreign bank account on or before the 30th June, 2019.

9. Mode and manner of repatriation of assets held outside Pakistan and payment of tax thereon.—The State Bank of Pakistan shall notify the mode and manner of—

(a) repatriation of assets to Pakistan;

(b) deposit of tax in foreign currency through State Bank of Pakistan; and

(c) method of conversion of value of assets held outside Pakistan in Pak Rupees.

10. Tax paid not refundable—Any amount of tax or default surcharge paid under the provisions of this Act shall not be refundable.

11. Act not to apply to certain persons, assets or proceedings.—The provisions of this Act shall not apply to—

(a) holders of public office;

(b) a public company as defined under clause (47) of section 2 of the Income Tax Ordinance, 2001 (XLIX of 2001);

(c) any proceeds or assets that are involved in or derived from the commission of a criminal offence;

(d) gold, precious metals, precious stones or jewelry, except gold held as stock-in-trade by a jeweler;

(e) bearer prize bonds;

(f) bearer securities, bearer shares, bearer certificates, bearer bonds or any other bearer assets; or

(g) proceedings pending in any court of law.

12. Declaration not admissible in evidence —Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under this Act shall be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or adverse action or for the purposes of prosecution under any law.

13. Misrepresentation—(1) Notwithstanding anything contained in this Act, where a declaration has been made by misrepresentation or suppression of facts in respect of the undisclosed assets declared therein, such declaration, to the extent of the asset to which such misrepresentation or suppression of facts relates to, shall be void and shall be deemed to have been never made under this Act.

(2) A declaration made under this Act shall not render any declaration made under the Foreign Assets (Declaration and Repatriation) Act, 2018 or the Voluntary Declaration of Domestic Assets Act, 2018.

14. Confidentiality —Notwithstanding any other law for the time being in force including the Right of Access to Information Act, 2017 (XXXIV) and sub-section (3) of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), except the provisions of clauses (a) and (g) of sub-section (3) of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), particulars of any person making a declaration under this Act or any information received in any declaration made under this Act shall be confidential.

15. Power to make rules.—The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act including the manner, procedure, payment of tax and conditions under which the declaration under this Act shall be filed.

16. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

17. Removal of difficulty —If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by notification in the official Gazette, remove such difficulty as is not inconsistent with the provisions of this Act.

18. Revision of declaration —Any person who, having filed a declaration, hereinafter referred to as the “original declaration”, discovers any omission, mistake, computational error or wrong

statement therein, may file revised declaration within the due date specified in section 3, subject to the condition that the value of asset or tax thereon shall be not less than the value of asset and tax thereon, declared in the original declaration.

19. Repeal—The Assets Declaration Ordinance, 2019 (III of 2019) is hereby repealed from the date of commencement of this Act.

THE SCHEDULE

[see section 4]

Rates of Tax

(1) The rates of tax imposed on undisclosed assets, sales and expenditures shall be as specified in the following Table, namely:—

TABLE

S. No. Undisclosed assets, sales or expenditure Rate of tax

@ (2) (3)

1. Domestic immovable properties 1.5%
2. Foreign liquid assets not repatriated 6%
3. Unexplained expenditure 4%
4. Undisclosed Sales 2%
5. All other assets 4%

Rates of Default Surcharge

(2) The amount of tax under clause (1) of the Schedule payable after the 30th June, 2019 shall be increased by a default surcharge, by amount as specified in column (3) of the following Table,

namely:—

TABLE

S. No. Time of payment of tax Rate of default

surcharge

qd Q) (3)

1. If the tax is paid after the 30th June, 2019 and on or before the 10% of the tax amount 30th September, 2019
2. If the tax is paid after the 30th September, 2019 and on or before | 20% of the tax amount the 31st December, 2019
3. If the tax is paid after the 31st December, 2019 and on or before | 30% of the tax amount the 31st March, 2020
4. If the tax is paid after the 31st March, 2020 and on or before the | 40% of the tax amount

30th June, 2020